

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ANTHONY L. SEVERINO)	
)	Civil Action No. 3:21-219
Plaintiff,)	
)	
vs.)	U.S. District Judge Arthur J. Schwab
)	U.S. Magistrate Judge Patricia Dodge
SCI SOMERSET OF PA D.O.C. AND)	
BCI-PREA COORDINATOR)	
)	
Defendants.)	

**ORDER OF COURT ADOPTING MAGISTRATE JUDGE'S
AUGUST 11, 2022 REPORT AND RECOMMENDATION ([DOC. 16](#)) AND DISMISSING
CASE WITH PREJUDICE**

On August 11, 2022, Magistrate Judge Patricia L. Dodge (“Magistrate Judge Dodge”) issued a Report and Recommendation, recommending that this case be dismissed. ([Doc. 16](#)). For the reasons set forth below, Magistrate Judge Dodge’s August 11, 2022 Report and Recommendation is adopted, and Plaintiff’s case is dismissed with prejudice.

I. BACKGROUND

On December 27, 2021, Plaintiff Anthony L. Severino’s *pro se* Complaint was filed in this action. ([Doc. 9](#)).

On April 12, 2022, a Motion For More Definite Statement was filed by Defendants. ([Doc. 7](#)).

On April 19, 2022, in a Memorandum Order, Magistrate Judge Dodge granted Defendants’ Motion For More Definite Statement without prejudice, ordered Plaintiff to file an Amended Complaint no later than May 20, 2022, and instructed that “[t]he Amended Complaint should address certain fundamental issues,” which Magistrate Judge Dodge outlined in detail.

([Doc. 10](#)).

On May 17, 2022, Plaintiff filed a Response to Magistrate Judge Dodge's April 19, 2022 Order. ([Doc. 11](#)). In his Response, Plaintiff explained why he "cannot get more clear then (sic.) I was in my 1983." ([Doc. 11](#)).

On May 26, 2022, Magistrate Judge Dodge issued a text Order that stated:

By Order dated April 19, 2022, Plaintiff was directed to file an Amended Complaint. The order provided specific instructions on how to do so. The filing by Plaintiff that was docketed on May 17, 2022 is not an amended complaint and does not comply with the Court's order. Therefore, no later than June 24, 2022, Plaintiff shall file an Amended Complaint that follows the guidelines set forth in the April 19, 2022 order. The Court is providing another copy of that order to the Plaintiff with this order.

([Doc. 12](#)).

On June 21, 2022, Plaintiff filed a "Response to order t (sic.) be a more definite statement." ([Doc. 13](#)).

On July 5, 2022, Magistrate Judge Dodge issued a Memorandum Order, which addressed a number of contentions raised by Plaintiff in his June 21, 2022 Response. ([Doc. 14 at 3-5](#)).

Magistrate Judge Dodge concluded:

Therefore, Plaintiff will be given one final opportunity to comply with this Court's order and submit an amended complaint that complies with the Federal Rules of Civil Procedure as well as the Court's directives and names defendants against whom a suit can be brought. Failure to do so will result in a recommendation that this case be dismissed.

Therefore, this 5th day of July, 2022, it is ORDERED that Plaintiff shall file an Amended Complaint in the manner outlined in the Court's April 19, 2022 order no later than August 5, 2022.

(*Id.* at 5).

On August 5, 2022, Plaintiff filed a reply to Magistrate Judge Doge’s July 5, 2022 Memorandum Order. ([Doc. 15](#)).

On August 11, 2022, Magistrate Judge Dodge *sua sponte* filed a Report and Recommendation, recommending “because Severino has failed to comply with this Court’s orders regarding the deficiencies of his Complaint and further, because the Complaint fails to state a claim as a matter of law, this action should be dismissed.” ([Doc. 16 at 1](#)).

More specifically, Magistrate Judge Dodge first recommended, after analyzing the case pursuant to the six-factor balancing test set forth in *Poulis v. State Farm Fire & Casualty Co.*, 747 F.2d 863 (3d Cir. 1984), for determining whether a case or claim should be dismissed with prejudice as a sanction, that Plaintiff’s case should be dismissed *sua sponte* pursuant to Federal Rule of Civil Procedure 41(b) (“Rule 41(b)”) because Plaintiff has repeatedly failed to comply with Court orders. (*Id.* at 4-8).

Second, Magistrate Judge Dodge recommended that because Plaintiff “cannot sue SCI Somerset and has failed to state a claim against the PREA Coordinator,” that Plaintiff’s case be dismissed for failure to state a claim upon which relief can be granted. (*Id.* at 8) (citing 28 U.S.C. § 1915A).

The parties had until August 29, 2022 to file objections to Magistrate Judge Dodge’s August 11, 2022 Report and Recommendation. (Doc. 16 at 8). To date, no objections to Magistrate Judge Dodge’s August 11, 2022 Report and Recommendation have been filed.

II. DISCUSSION AND CONCLUSION

Pursuant to 28 U.S.C. § 636, this Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also

receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.*

Having reviewed the record in this case, and considered Magistrate Judge Dodge’s thorough August 11, 2022 Report and Recommendation, and neither party having filed an objection to said Report and Recommendation, it is HEREBY ORDERED that Magistrate Judge Dodge’s August 11, 2022 Report and Recommendation ([Doc. 16](#)) is adopted as the Opinion of this Court.

It is FURTHER HEREBY ORDERED that, for the reasons set forth in Magistrate Judge Dodge’s August 11, 2022 Report and Recommendation ([Doc. 16](#)), Plaintiff’s case is DISMISSED WITH PREJUDICE, and the Clerk of Court shall mark this case CLOSED.

SO ORDERED this 12th day of August, 2022.

s/Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc: Honorable Patricia L. Dodge
United States Magistrate Judge

All ECF-registered Counsel of Record

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